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CHARLES ELMORE C

IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1934.

No. 146.

CLIFTON MANUFACTURING COMPANY, *Petitioner,*

vs.

UNITED STATES OF AMERICA.

REPLY MEMORANDUM FOR PETITIONER.

W. A. SUTHERLAND,
Counsel for Petitioner,
Atlanta, Georgia.

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REPLY MEMORANDUM FOR PETITIONER.

In the memorandum for the United States filed in this case, the Solicitor General has stated that the point involved in this case is "so closely related to the questions involved in *National Paper Products Co.* v. *Helvering,* Nos. 35, 39, October Term 1934, and *Zellerbach Paper Co.* v. *Helvering,* Nos. 36-38, October Term 1934, in which certiorari was granted on June 4, 1934", that the Government does not oppose the present petition. However, the Solicitor General recommended that the Court defer action on the petition in this case until after it has decided the above cases. He states further that if those cases are decided in favor of the Government, the petition should be denied; but that if they are decided against the Government, the petition should be granted and this case reversed and remanded to the Circuit Court of Appeals.

We agree that the question involved in the present case is substantially the same as the question involved in the cases in which certiorari has already been granted and that all of the cases should be decided the same way. If the cases referred to were to be presented upon this assumption, we would agree with the suggestion made by the Solicitor General in his memorandum in the present case.

However, in the briefs filed by the Petitioners in the cases of *National Paper Products Co.* and *Zellerbach Paper Co., supra*, an attempt is made to distinguish the present case from those cases on the ground that the question involved for 1918 fiscal years under the 1918 Act is not the same as the question involved for 1921 and 1925 fiscal years which are governed respectively by the Revenue Acts of 1921 and 1926. In attempting a distinction between the years, where no valid distinction exists, the Petitioners in those cases have failed to recognize some of the most important considerations which should be placed before this Court in connection with this whole group of cases.

In order that full consideration may be given to all aspects of the case, Petitioner respectfully requests that its petition be granted immediately and the present case advanced for argument along with the cases of *National Paper Products Co.* and *Zellerbach Paper Co., supra.* We are certain no inconvenience to the Government will be involved in this handling of the matter.

Respectfully submitted,

W. A. SUTHERLAND,
Counsel for Petitioner,
Atlanta, Georgia.